



**DEPARTMENT OF AGRICULTURE
OVERSIGHT OF MANUFACTURE AND DISTRIBUTION OF
COMMERCIAL FEED PRODUCTS**

**From The Office Of State Auditor
Claire McCaskill**

Compliance with commercial feed labeling is high, but changes in the inspection program are needed to ensure deficient feed products are not sold to farmers and pet owners.

**Report No. 2002-106
October 1, 2002**

www.auditor.state.mo.us

PERFORMANCE AUDIT



Office Of The
State Auditor Of Missouri
Claire McCaskill

October 2002

The following problems were discovered as a result of an audit conducted by our office of the Department of Agriculture, Oversight of Manufacture and Distribution of Commercial Feed Products.

The Department of Agriculture, Plant Industries Division-Bureau of Feed and Seed (bureau) inspection and testing program helps ensure the majority of commercial feed products, such as cattle feed and pet food, manufactured and/or distributed in the state contain ingredients guaranteed on the product labels. The bureau's testing program consistently showed at least 87 percent of the commercial feed providers complied with ingredient requirements.

Repeated violators not penalized

Despite high compliance, the bureau's policy did not penalize feed distributors who repeatedly violated state feed laws and regulations. This policy has partly contributed to sales of over 6.5 million pounds in deficient feed products during calendar years 2000 and 2001.

These mislabeled products contained less protein and/or other necessary ingredients critical to the growth and health of livestock, poultry, and pets. When commercial feed products contain less ingredients than advertised, it can result in reduced profits for commercial feed purchasers, and increased health maintenance costs for pet owners. Additionally, the bureau did not collect all state inspection fees in a timely manner.

The bureau's analyses showed 87 percent of the feed sampled in 2000 and 88 percent sampled in 2001 complied with labeling laws. For feed products that did not meet label guarantees, the bureau issued a "withdrawal from distribution order."

Audit analysis of withdrawal orders for 2000 and 2001 showed commercial feed manufacturers and distributors reported 6.5 million of the 9.5 million pounds of deficient feed (68 percent) already sold when they received the withdrawal order. The total amount of deficient feed products actually sold to farmers and pet owners could be substantially higher than 6.5 million pounds. The withdrawal orders only list the amount of feed on hand at the site of the original sample, which could have been substantially less than the total amount manufactured, especially if the sample came from a retail distributor.

The bureau lacked procedures to ensure deficient feed products are not sold. Due to the time required to obtain samples and conduct feed tests, it is not possible to totally prevent the sale of deficient feed products.

YELLOW SHEET

(over)

The bureau's feed inspectors visited and obtained feed samples from numerous retail sites when they could obtain the same feed samples from single manufacturing feed mill sites within the state. The bureau's inspection policy authorizes feed inspectors to independently develop feed inspection and sampling strategies rather than follow a statewide strategy. Additionally, bureau staff may be over testing some products, such as 20 or more tests on a product in a calendar year.

Although a statewide inspection and sampling strategy would not eliminate the need to visit some retail distributors and obtain multiple samples of the same feed, bureau officials acknowledged some visits and multiple testing of the same product could be prevented. Eliminating unnecessary visits would allow feed inspectors more time to ensure manufacturers and distributors comply with withdrawal orders.

Increased central oversight could reduce the number of feed samples obtained and annual tests conducted. Audit analysis showed some feed products were sampled and tested 52 times in a calendar year. Because several of these products did not fail or failed only a few tests for labeling guarantees, some tests could have been potentially eliminated.

According to the bureau officials, some feed ingredients, such as soybean meal, need more frequent testing because of the importance related to protein guarantees. Bureau staff, however, have not monitored the samples obtained and tested for each product throughout the year to determine if current practices are adequate.

Reports are available on our web site: www.auditor.state.mo.us

**DEPARTMENT OF AGRICULTURE OVERSIGHT OF MANUFACTURE AND
DISTRIBUTION OF COMMERCIAL FEED PRODUCTS**

TABLE OF CONTENTS

	<u>Page</u>
STATE AUDITOR'S REPORT	1
RESULTS AND RECOMMENDATIONS.....	3
1. Improved Oversight and Control Could Help Prevent the Sale of Deficient Commercial Feed Products.....	3
Conclusion	7
Recommendations.....	7
2. A More Efficient Inspection Strategy Could Help Improve Oversight and Control	10
Conclusion	11
Recommendations.....	12
 APPENDIXES	
I. OBJECTIVES, SCOPE AND METHODOLOGY	13
II. BUREAU INSPECTION DATA.....	14
III. WITHDRAWALS BY FEED CLASS AND TYPE OF RELEASE	16



CLAIRE C. McCASKILL
Missouri State Auditor

Honorable Bob Holden, Governor
and
Lowell F. Mohler, Director
Department of Agriculture
and
Joseph Francka, Director
Plant Industries Division
Jefferson City, MO 65102

The State Auditor's Office audited the Department of Agriculture, Plant Industries Division - Bureau of Feed and Seed (bureau) inspection program. The audit objectives included analyzing if the bureau is effectively administering state laws and regulations designed to ensure feed manufacturers and distributors consistently and accurately label feed products. We reviewed the bureau's policies, procedures, and inspection and testing results between January 2000 through December 2001.

A majority of the state regulated commercial feed products follow state labeling laws. Compliance rates were at least 87 percent in calendar years 2000 and 2001. Improvement was needed in enforcement procedures to ensure deficient feed products are not sold to consumers. The audit identified more than six million pounds of mislabeled feed products sold after the feed failed inspections. Additionally, inspection resources could be better used by taking more samples from manufacturers' feed mills and by reducing the number of tests for some products.

During the audit, the bureau initiated some corrective actions to mitigate the sale of deficient feed products. We make several recommendations to help prevent the sale of deficient commercial feed products and improve the efficiency of the bureau's procedures to regulate commercial feed products.

The audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such tests of the procedures and records as were considered appropriate under the circumstances.

A handwritten signature in black ink, reading "Claire McCaskill". The signature is fluid and cursive, with the first name "Claire" and last name "McCaskill" clearly distinguishable.

Claire McCaskill
State Auditor

The following auditors contributed to this report:

Director of Audits:	William D. Miller, CIA
Audit Manager:	John B. Mollet, CISA
In-Charge Auditor:	Deborah J. Yost
Audit Staff:	Michelle J. Holland

RESULTS AND RECOMMENDATIONS

1. Improved Oversight and Control Could Help Prevent the Sale of Deficient Commercial Feed Products

The Department of Agriculture, Plant Industries Division - Bureau of Feed and Seed (bureau) inspection and testing program helped ensure the majority of commercial feed products, such as cattle feed and pet food, manufactured and/or distributed in the state contain ingredients guaranteed on the product labels. The bureau's testing program consistently showed at least 87 percent of the commercial feed providers complied with ingredient requirements. Despite high compliance, the bureau's policy did not penalize feed distributors who repeatedly violated state feed laws and regulations. This policy has partly contributed to sales of over 6.5 million pounds in deficient feed products during calendar years 2000 and 2001. These mislabeled products contained less protein and/or other necessary ingredients critical to the growth and health of livestock, poultry, and pets. When commercial feed products contain less ingredients than advertised, it can result in reduced profits for commercial feed purchasers, and increased health maintenance costs for pet owners. Additionally, the bureau did not collect all state inspection fees in a timely manner.

Bureau inspections and testing have helped ensure most feed products are labeled correctly

In 1998, the state's commercial feed law (Sections 266.152 to 266.220, RSMo 2000) was amended requiring all commercially labeled feed products to be guaranteed for the following ingredients 1) crude protein, minimum percentage; 2) crude fat, minimum percentage; 3) crude fiber, maximum percentage; 4) calcium, minimum and maximum percentage; and 5) phosphorus, minimum percentage. The law also required the addition of salt must be guaranteed with minimum and maximum percentages. To help ensure commercial feed products are labeled according to state laws, the bureau's feed inspectors visit commercial feed manufacturers and retail distributors to obtain feed samples for laboratory testing. The samples are sent to the bureau's feed control laboratory in Jefferson City to determine if the feed meets the labeling guarantees. For example, the laboratory's analysis will show if the feed sample contains 25 percent crude protein as guaranteed on the label. The bureau's inspectors conducted 1,970 inspections and analyzed 5,968 feed samples in 2000 and conducted 2,125 inspections and analyzed 6,053 food samples in 2001.

The bureau's analyses showed 87 percent of the feed samples in 2000 and 88 percent analyzed in 2001 complied with labeling laws. For feed products that did not meet label guarantees, the bureau issued a "withdrawal from distribution order." The withdrawal order states "further distribution (sale) of this product is hereby ordered stopped," and also notes the entity receiving the order cannot remove the products until it has received a release from the bureau. To obtain a release, the deficient feed product holders must state they plan to destroy, relabel, or reprocess the product. The manufacturer or retailer may also report the product was "all sold" at the time officials received the withdrawal order.

State inspections
produce high
compliance rate

Based on the dates withdrawal orders were issued, the bureau issued 736 withdrawal orders in 2000 and 717 withdrawal orders in 2001. These orders involved about 4 million pounds of deficient feed products in 2000 and 5.5 million pounds of deficient feed products in 2001. The withdrawal orders are mailed to the location where the sample was obtained and to the manufacturer of the feed, if a different location. For example, if the bureau obtained the sample from a retail distributor, the withdrawal order is sent to the retailer and the manufacturer who produced the feed.

Majority of deficient feed products ordered withdrawn were reported as already sold

Audit analysis of withdrawal orders for 2000 and 2001 showed commercial feed manufacturers and distributors reported 6.5 million of the 9.5 million pounds of deficient feed (68 percent) already sold when they received the withdrawal order. (*See Appendix III, page 16, for a list of products sold.*) The total amount of deficient feed products actually sold to farmers and pet owners could be substantially higher than 6.5 million pounds. The withdrawal orders only list the amount of feed on hand at the site of the original sample, which could have been substantially less than the total amount manufactured, especially if the sample came from a retail distributor. Since samples drawn from retailers represent only a portion of feed manufactured in the same lot and distributed to other retailers, a deficiency at one retailer makes the entire lot of feed suspect.

Deficient feed products can result in reduced profits for producers and higher maintenance costs for pet owners

A publication of the Association of American Feed Control Officials (Association) states "subtle deviations from label claims may not be readily apparent and may result in health or production losses before the use of the offending product can be discontinued."¹ Feed purchasers rely on commercial feed labels to ensure the products they buy contain the ingredients, such as crude protein and fat, needed to sustain proper weight gain and animal health. Products containing less than claimed amounts of crude protein can be especially detrimental, according to the Association. Protein is essential for maintenance, growth, milk and wool production. Because crude protein is a high cost ingredient, feed purchasers also typically pay more for products with higher crude protein guarantees. Audit analysis showed 2.8 million pounds (over 43 percent) of the deficient feed products ordered withdrawn and reported sold for 2000 and 2001 had less protein than guaranteed.

¹ This Association is a nationally recognized organization comprised of feed officials from private feed organizations, and federal and state governments, including Missouri.

Bureau lacked procedures to ensure deficient feed products are not sold

Due to the time required to obtain samples and conduct feed tests, it is not possible to totally prevent the sale of deficient feed products. Bureau data shows an average 11-day time period from obtaining the feed sample to an entity receiving a withdrawal order. The bureau usually issued the order 9 days after taking the sample and conducting laboratory tests, with another 2 days for the mailed order to reach a distributor. During this 11-day period, feed distributors could legally sell the feed products until they received withdrawal orders. Audit tests disclosed laboratory tests are performed timely and results are available for distribution as soon as they are known. Bureau officials could do more to mitigate the selling of deficient feed products.

Withdrawal
orders can be
issued sooner

- When the laboratory determines the product failed tests, immediate notification via telephone or facsimile could be used rather than waiting to issue the order until after posting the failure to records. Telephone or facsimile notification could alert the vendor of the product failure, order withdrawal and advise a withdrawal order is forthcoming.
- Bureau officials could require feed manufacturers to forward withdrawal orders to retailers who received the deficient feed products to prevent the sale. For example, analysis showed the bureau obtained a sample of 480,000 pounds of cat food and 480,000 pounds of dog food at a manufacturer's site on February 5, 2001, and sent out a withdrawal order for both products on February 21, 2001. Nine days later, on March 2, the manufacturer reported both deficient pet food batches had been sold (shipped to retailers). The bureau did not require the manufacturer to notify retailers about the deficient food.

Bureau officials have not effectively followed up on withdrawal orders. They do not require feed inspectors to promptly visit feed distributors to ensure compliance with withdrawal orders. State law² does not allow distributors to dispose deficient feed in any manner until they have obtained permission (a release) from the bureau or a court. Distributors should seek a release within 30 days of receiving a withdrawal order. As Table 1.1 shows bureau staff have not ensured distributors obtained releases for 373 withdrawal orders within 45 or more days after issuing the orders.

² Section 266.205, RSMo 2000.

Table 1.1: Withdrawal Releases Not Obtained in 45 or More Days

Number of Days to Release	Number of Orders Issued	
	2000	2001
45-99 Days	88	113
100-199 Days	57	39
200-299 Days	28	9
300 or more Days	<u>9</u>	<u>30</u>
Totals	<u>182</u>	<u>191</u>

Source: SAO Analysis

Immediately after auditors showed bureau officials these results, they required the six area feed inspectors to obtain a release for these withdrawal orders. The officials also recommended the inspectors immediately follow up on 30 to 40 percent of withdrawal orders issued to determine if feed remained and the distributor's disposal plans.

Bureau lacks policy to ensure all feed manufacturers comply with state feed laws

Bureau data showed 16 commercial feed manufacturers failed to meet labeling guarantees 10 or more times in 2000 and/or 2001. State feed regulations (2 CSR 70-30.110) allow assessment of a maximum \$1,000 administrative penalty for each serious violation of these regulations. Serious violations per the regulation include "excessive and/or repeated failures to meet labeling guarantees when such failures create adverse economic impact to the purchaser of the feed." Bureau officials have not established criteria for how many failures warrant an administrative penalty or assessed a penalty on any manufacturer. The bureau administrator stated bureau policy is to assist feed manufacturers, especially small companies, meet labeling guarantees rather than assess penalties, which could close a business. The bureau's primary responsibility; however, is to ensure feed purchasers receive the feed products guaranteed on the label.

Penalties could
improve
compliance

Audit analysis showed these practices did not ensure compliance from at least two feed manufacturers, acknowledged by bureau officials as problem manufacturers.

- The bureau issued 37 withdrawal orders for 285,750 pounds of deficient feed products to one manufacturer during 2000 and 2001. The manufacturer reported already selling 275,750 pounds (97 percent) before receiving the withdrawal orders.
- A manufacturer received 14 withdrawal orders for 89,300 pounds of deficient feed. The manufacturer reported selling 87,700 pounds (98 percent) before receiving the withdrawal orders.

Analysis showed 14 other commercial feed manufacturers received 10 or more withdrawal orders in 2000 and/or 2001, but bureau officials did not penalize these entities for noncompliance. The Association's "Official Publication 2002" recognized the need for penalties to enforce feed regulations. The publication states:

"Feed regulations by themselves serve no useful purpose unless accompanied by a means of enforcement. Enforcement provisions must allow for the authority to verify compliance with the regulations. Punitive actions for noncompliance must be provided in the regulations and need to be severe enough to act as a deterrent and yet not be crippling when imposed."

Bureau has not required 30 feed manufacturers to pay inspection fees in a timely manner

Bureau procedures for collecting inspection and product registration fees allowed 30 feed manufacturers to pay these fees late by 12 months or more. Feed manufacturers are required to report quarterly the tonnage of feed produced/sold and pay a 10-cent-per-ton inspection fee or a \$5 minimum. Inspection fees are due the last day of the month in the month preceding the end of the quarter. Pet food manufacturers are required to pay an annual \$25 product registration fee by January 31 for each product sold in 10-pound or less bags. If companies do not pay fees when due, bureau officials can sanction them by ordering all products withdrawn for sale in the state. According to bureau policy, officials send delinquent companies quarterly reminder notices and do not order products withdrawn until fees are delinquent for 12 months or longer. Because the feed manufacturers had not filed required tonnage reports, bureau data did not show the dollar amounts owed. Analysis of the bureau's delinquent companies listing showed the feed manufacturers paid late four or more quarters before the bureau ordered products withdrawn. Bureau officials cancelled licenses of only 14 of these feed manufacturers, which continue to owe inspection and/or product registration fees.

Bureau should
sanction sooner

Conclusion

Feed purchasers rely on commercial feed labels to ensure feed products purchased contain the ingredients needed to sustain proper weight gain and health. The bureau's testing and sampling procedures have helped ensure the majority of commercial feed product manufactured and distributed in the state meet labeling guarantees. Nevertheless, bureau officials could do more to enforce state feed laws and regulations to help prevent sales of deficient commercial feed products. Because of sales of deficient feed, an unknown number of feed purchasers did not receive the guaranteed products for which they paid. Better enforcement of state feed laws and regulations would ensure feed manufacturers paid state license fees when due.

Recommendations

We recommend the Director, Department of Agriculture direct the bureau to establish:

- 1.1 Procedures for immediately notifying feed manufacturers and distributors to withdraw product from sale when the product fails tests.
- 1.2 Procedures requiring timely follow up inspections on withdrawal orders to ensure deficient feed products are disposed in accordance with state laws and regulations.

- 1.3 A policy requiring manufacturers to notify retailer distributors to withdraw deficient feed products.
- 1.4 Guidelines and timeframes for how many repeated and/or excessive failures to meet labeling guarantees warrant an administrative penalty.
- 1.5 A more stringent and timely procedure for collecting licensing, inspection and product registration fees.

Department of Agriculture Response

- 1.1 *We agree with this recommendation. We will begin informing feed manufacturers and distributors by telephone or fax as soon as the analysis is completed and it is determined that a serious deficiency exists. This procedure will be implemented October 1, 2002.*
- 1.2 *We agree with this recommendation. We have already implemented a plan to follow-up on 30-40% of all withdrawal orders to determine that feed products are relabeled, reprocessed, or disposed of in accordance with the law. One hundred percent follow-up is not possible due to the small number of field inspectors (6) and the fact that one position was lost during the budget crisis of 2001. The average number of feed inspectors per state for the eight surrounding states is twelve and eight-tenths (12.8). We are looking at the way other states handle their withdrawals to draw ideas that will help us in making improvements in our own process.*
- 1.3 *We agree that serious adulteration of feed products need immediate withdrawals and notification to retail distributor and manufacturer. However, we disagree that situations of minor deficiencies that do not pose serious or economic problems do not warrant this kind of immediate attention. Also, the question exists as to whether we have statutory authority to do this.*
- 1.4 *We disagree. We feel that our regulations (rules) are very clear on how and when punitive damages may be assessed. Please refer to 2 CSR 70-030.110 for very explicit directions on how actions are to be taken. It is not possible to write a procedure for every deficiency encountered because subsection 5 of this rule states, "An administrative penalty, not to exceed one thousand (\$1,000.00) dollars, will be ordered by the director, based on (A) Determination of the level of adulteration or misbranding, within the meaning of sections 266.175 and 266.180 RSMo, and the degree of resulting physical injury, loss of health, or death to animals and/or humans, or (B) Determination of the degree of the adverse economic impact to the purchaser caused by the violation and/or (C) The overall compliance record of the commercial feed labeler".*

Therefore, an investigation must occur on each individual case and a determination made at that time as to whether an administrative penalty is necessary and how much it should be based upon the seriousness of the violation as referenced in the above mentioned rule. Also, unless it is a serious adulteration we must allow for a ninety-day compliance period as stated in subsection (3) (D) in this rule.

Our "voluntary compliance" philosophy does work. We have increased compliance from 77% in 1994 to 88.2% in 2001. We work with individuals who are having problems and give them advice and information on formulating feeds. It is not a simple procedure to formulate feed correctly, nor can it be corrected in one day. We have found variances as high as one percent in corn protein for corn grown in northwest Missouri as opposed to corn grown in southeast Missouri. Also, this will vary from year to year. This is the basis of our annual corn survey, i.e., to help feed manufacturers formulate their feed correctly and protect the end user, the farmer.

We will concentrate our efforts more on feed manufacturers who are habitually deficient and take appropriate action when needed.

You should also be aware of the fact that all deficiencies are published in the Annual Feed Summary which is sent free of charge to all distributors listed in the report and all feed dealers and farmers requesting it. Publishing a company's deficient products for everyone to see is more of a deterrent than any fine imposed upon a feed manufacturer could be.

Finally, we have a program called the "Excellence in Compliance Award". Companies that meet a ninety-percent (90%) compliance rate receive a certificate. This figure will be gradually moved upward to further increase compliance. This also helps increase compliance plus the fact it notifies farmers the company maintains high standards. Most companies strive very hard to meet this criteria and receive this certificate.

- 1.5 *We agree. Better procedures have been put in place for the collection of delinquent inspection fees. As companies are notified of new delinquent quarterly tonnage reports, information will include old delinquent reports and action that will be taken for failure to file reports. Licensing and product listing fees have followed a more stringent timetable. Stronger enforcement will be implemented to make compliance more timely. However, we will always have a few that we cannot collect from because of bankruptcy or going out of business. This has been implemented.*

Auditor's Comment

Regarding the disagreement with recommendation 1.4, the department's voluntary compliance policy is not in question by the auditors. Instead, the report identifies 16 feed manufacturers who failed to meet labeling standards 10 or more times. At some point these manufacturers should be assessed a penalty because of the seriousness of the repeated violations. Establishing criteria as to how many violations a manufacturer can have before sanctions are imposed would assist in determining when to assess sanctions.

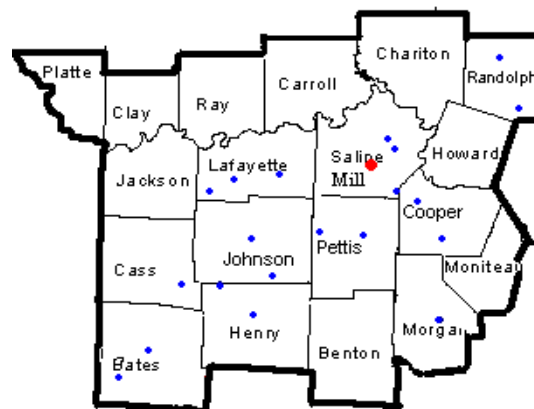
2. A More Efficient Inspection Strategy Could Help Improve Oversight and Control

The bureau's feed inspectors visited and obtained feed samples from numerous retail sites when they could obtain the same feed samples from single manufacturing feed mill sites within the state. The bureau's inspection policy authorizes feed inspectors to independently develop feed inspection and sampling strategies rather than follow a statewide strategy. Additionally, bureau staff may be over testing some products, such as 20 or more tests on a product in a calendar year. Although a statewide inspection and sampling strategy would not eliminate the need to visit some retail distributors and obtain multiple samples of the same feed, bureau officials acknowledged some visits and multiple testing of the same product could be prevented. Eliminating unnecessary visits would allow feed inspectors more time to ensure manufacturers and distributors comply with withdrawal orders.

Inspectors can use their time better

Although several commercial feed mills are located in the state, the bureau lacks an inspection strategy to maximize the number of samples obtained directly from the feed mills. As a result, inspectors sampled feed manufactured by the mills at numerous cities and retail distributors. During 2000 and 2001, inspectors collected 871 samples in 241 cities of which 589 (67 percent) were collected from retail stores. Thus, only one-third of all samples were collected from feed mills, which produce the feed sold by retailers. Withdrawal orders would be more effective at the mills because they would have broader application. Bureau officials could require mills to notify all retailers who received deficient feed from the same lot to stop sales. Figure 2.1 shows the activities of one inspector in 2001 who tested feed at 20 retailers, although the feed came from 1 feed mill located in the inspector's jurisdiction. The feed mill was inspected once during that year.

Figure 2.1: Feed Inspector Visits to Retailers



Legend

- Mill in Marshall
- Retailers

Central oversight and planning could eliminate the need for some tests

Increased central oversight could reduce the number of feed samples obtained and annual tests conducted. Audit analysis showed some feed products were sampled and tested 52 times in a calendar year. Because several of these products did not fail or failed only a few tests for labeling guarantees, some tests could have been potentially eliminated. According to bureau officials, some feed ingredients, such as soybean meal, need more frequent testing because of the importance related to protein guarantees. Bureau staff, however, have not monitored the samples obtained and tested for each product throughout the year to determine if current practices are adequate. Table 2.1 shows feed products made by 6 companies which inspectors tested 20 or more times in 2000 and/or 2001.

Table 2.1: Products Tested 20 or More Times in One Year

Company Number	Product	2000		2001	
		Number Times Tested	Pass Rate	Number Times Tested	Pass Rate
Company 1	Product 1	21	100%	16	94%
	Product 2	21	95%	15	93%
	Product 3	27	100%	36	97%
	Product 4	28	93%	23	96%
	Product 5	20	90%	13	92%
	Product 6	22	95%	18	94%
	Product 7	52	98%	31	84%
Company 2	Product 1	17	88%	49	100%
	Product 2	9	100%	21	100%
Company 3	Product 1	16	100%	36	97%
Company 4	Product 1	25	92%	32	91%
Company 5	Product 1	7	100%	24	79%
Company 6	Product 1	24	88%	13	100%

Source: SAO Analysis

Conclusion

The bureau's policy giving feed inspectors discretion in selecting samples directly from a feed manufacturer or from retail distributors causes an inefficient use of staff resources. Implementing a strategy emphasizing sampling directly from commercial feed manufacturers rather than retail distributors should give inspectors additional time to enforce state feed laws and regulations. Such a strategy could more broadly protect consumers if withdrawal orders issued to manufacturers also reached retail distributors. The bureau's lack of a system to track feed

product testing has contributed to over testing of some products. Implementing a tracking system should eliminate unnecessary tests and expedite testing of other products.

Recommendations

We recommend the Director, Department of Agriculture direct the bureau to establish:

- 2.1 A strategy emphasizing sampling directly from the manufacturers' feed mills and reducing visits and samples collected at retail distributors.
- 2.2 Central oversight procedures to track how often a product is tested and the results.

Department of Agriculture Response

- 2.1 *We do not agree or disagree. We already sample directly at the manufacturers' feed mills at least annually and some places much more when problems are found. We will require at least semi-annual sampling at all manufacturing facilities. Inspections and sampling product at the retail level offers increased consumer protection. In many cases, the product is manufactured outside of the state or the product is made and shipped before a sample can be analyzed and a withdrawal order issued. Approximately fifty percent of the licensed feed manufacturers selling feed in Missouri are located in other states. It is not customary for us to go into other states to do inspections. Thus, we can only find product at the retail level for fifty percent of the feed manufacturers licensed to do business in Missouri. Retail sampling many times prevents the sale of a defective product to a customer. I think there is a misunderstanding concerning what our field inspector said concerning sampling directly at the manufacturer's feed mills or our young inspector may have been intimidated by three field auditors following him and gave the wrong information.*
- 2.2 *We do not agree or disagree. We already have the ability to track how often a product is tested and the results of the analyses. We plan to make better use of this data. The products cited in the text of this report with the exception of one are very high volume products that are found in all areas of the state. It is very important that the current level of sampling and testing continue or increase due to the products being used in the manufacture of on-the-farm rations as well as being used in the manufacture of commercial finished feed products. The products cited have a high economic impact on the livestock producers in Missouri.*

OBJECTIVES, SCOPE AND METHODOLOGY

Objectives

Our objectives were to determine if the Department of Agriculture, Plant Industries Division-Bureau of Feed and Seed, is effectively administering state laws and regulations designed to ensure feed manufacturers and distributors consistently and accurately label feed products.

Scope and Methodology

Auditors reviewed state laws and regulations governing the manufacture and distribution of commercial feed products within Missouri, and the bureau's policies, manuals, and procedures for sampling and testing commercial feed products. Auditors performed the following audit steps to determine if bureau officials effectively regulated the commercial feed industry:

- Accompanied three of the bureau's six area feed inspectors during inspections of commercial feed manufacturers and distributors and observed if feed sampling followed bureau guidelines.
- Interviewed bureau officials to determine their policies and procedures to issue withdrawal orders for feed failing labeling guarantees and ensure deficient feed is not sold.
- Obtained and reviewed the bureau's 2000 and 2001 summary reports "Commercial Feed Inspections."
- Evaluated the extent bureau officials assessed administrative penalties for excessive and/or repeated failures to meet labeling guarantees when such failures would create adverse economic impact to the purchaser of the feed.

We also obtained and analyzed the bureau's detailed computerized data related to all commercial feed withdrawal orders issued for calendar years 2000 and 2001, and through May 31, 2002. We analyzed the data to determine 1) if feed manufacturers obtained compliance within 30-days as required by state regulations; 2) the classes of feed with withdrawal orders, including total weight; 3) the number of withdrawal orders reported as all sold; 4) the number of withdrawal orders showing the protein level lower than guaranteed; and 5) the number of feed manufacturers with less than 50 percent compliance rates. We tested the bureau's computerized data to verify its validity and found the data accurate. We evaluated the bureau's management controls related to the enforcement of state feed laws and regulations.

BUREAU INSPECTION DATA

The bureau employs six area feed (and seed) inspectors who randomly inspect and sample feed from feed manufacturers and retail distributors located in their areas (see map on page 15 for the bureau's six inspection areas). The area inspectors conducted 2,125 inspections and obtained 6,053 official feed samples during 2001. An official sample involves a product or an ingredient which is regulated by state law for the level guaranteed in the label. On a weekly basis, the feed inspectors mail the official samples for content analysis to the bureau's feed control laboratory in Jefferson City. The laboratory performed 62,120 tests in 2001 to determine if the feed samples contained the percent of ingredients, such as protein, as guaranteed on the label.

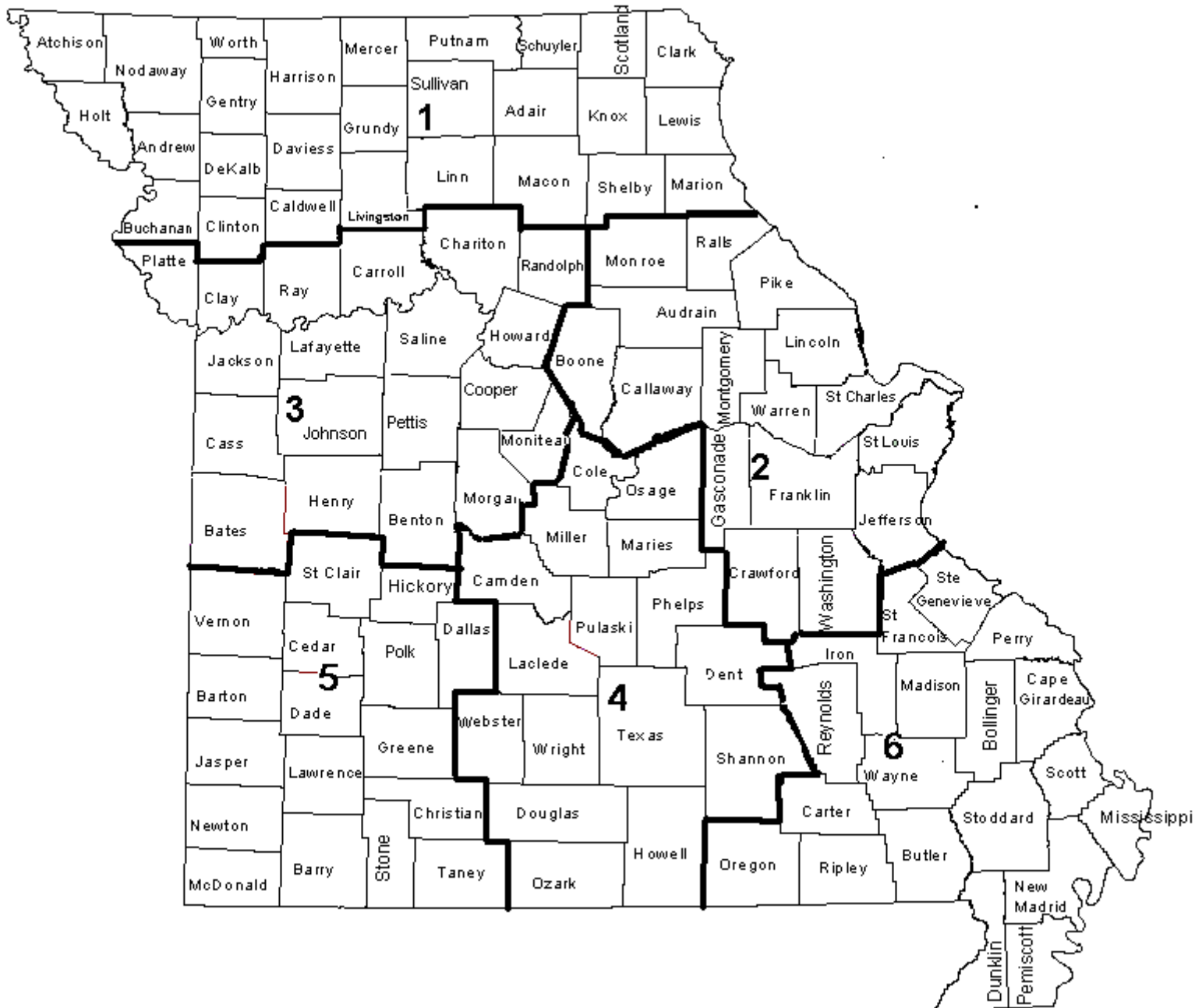
State regulations (2 CSR 70-30.110) allow assessment of a maximum \$1,000 fine against feed manufacturers and distributors for each serious violation of the state's feed laws and regulations. Serious violations include:

- "Excessive and/or repeated failures to meet labeling guarantees when such failures would create adverse economic impact to the purchaser of the feed."
- "The removal, sale, or distribution of any commercial feed placed under a "Withdrawal From Distribution Order" without permission of the director or an authorized representative."
- "The manufacturing or distributing of any adulterated or misbranded commercial feed that is hazardous to the health and well being of animals and/or humans, within the meaning of sections 266.175 and 266.180, RSMo."

The bureau, in partnership with the U.S. Food and Drug Administration, also provides inspection reports and regulations involved with preventing Bovine Spongiform Encephalopathy, commonly called mad cow disease in Missouri. Bureau staff are responsible for inspecting all facilities in the state who are manufacturing, labeling, or retailing products containing prohibited mammalian protein.

APPENDIX II

Figure II.1: Bureau of Feed and Seed Six Inspection Areas



Source: Bureau of Feed and Seed officials

APPENDIX III

WITHDRAWALS BY FEED CLASS AND TYPE OF RELEASE¹

Table III.1: 2000 Activity

Feed Class	<u>All Withdrawals</u>		<u>Reported Sold</u>		<u>Other</u>	
	Number of Orders	Total Pounds	Number of Orders	Total Pounds	Number of Orders	Total Pounds
No Class Identified	81	473,348	61	362,313	20	111,035
Broiler Feeds-Complete	2	1,962	1	12	1	1,950
Starter-Grower (Egg Type) Complete	5	14,400	3	8,650	2	5,750
Layer-Breeder (Egg Type) Complete	10	43,650	5	19,500	5	24,150
Layer-Breeder (Egg Type) Supplement	2	1,800	0	0	2	1,800
Beef Feeds-Complete	100	371,540	72	293,790	28	77,750
Beef Feeds-Supplement	126	536,271	84	378,491	42	157,780
Dairy Feeds-Complete	13	37,000	10	22,600	3	14,400
Dairy Feeds-Supplement	15	87,490	13	84,140	2	3,350
Swine Feeds-Complete	39	90,050	22	48,950	17	41,100
Swine Feeds-Supplement	28	106,730	9	19,300	19	87,430
Sheep Feeds-Complete	5	9,650	4	5,100	1	4,550
Sheep Feeds-Supplement	4	7,900	2	2,900	2	5,000
Horse Feed-Complete	28	70,810	22	50,060	6	20,750
Horse Feed-Supplement	6	16,475	2	3,625	4	12,850
All Stock	40	134,750	30	110,200	10	24,550
Rabbit Feed	16	57,400	13	49,600	3	7,800
Pet Foods (Dog & Cat)	64	203,885	34	115,933	30	87,952
Fish Feed	4	6,450	1	2,500	3	3,950
Health Products	4	6,950	3	2,950	1	4,000
Mineral Feeds	73	288,650	31	121,300	42	167,350
Liquid Feeds-Beef	6	78,500	2	17,500	4	61,000
Other Feeds	6	7,010	4	6,410	2	600
Alfalfa Products	10	169,880	6	153,230	4	16,650
Animal Products	5	351,450	3	200,000	2	151,450
Corn Products	2	5,500	1	2,500	1	3,000
Cottonseed Products	15	149,950	7	13,300	8	136,650
Distillers Products	2	91,220	1	51,220	1	40,000
Linseed & Flax Products	1	500	0	0	1	500
Marine Products	1	27,550	0	0	1	27,550
Milk Products	2	2,350	2	2,350	0	0
Oat Products	1	6,000	0	0	1	6,000
Screenings	1	46,000	0	0	1	46,000
Soybean Products	18	452,502	11	293,770	7	158,732
Wheat Products	<u>1</u>	<u>46,413</u>	<u>1</u>	<u>46,413</u>	<u>0</u>	<u>0</u>
Totals	<u>736</u>	<u>4,001,986</u>	<u>460</u>	<u>2,488,607</u>	<u>276</u>	<u>1,513,379</u>
Percentage	100%	100%	63%	62%	37%	38%

¹ Type of release includes reported sold, reprocessed, destroyed, returned to manufacturer, or relabeled

Source: SAO Analysis

APPENDIX III

Table III.2: 2001 Activity

Feed Class	<u>All Withdrawals</u>		<u>Reported Sold</u>		<u>Other</u>	
	<u>Number</u> <u>of Orders</u>	<u>Total</u> <u>Pounds</u>	<u>Number</u> <u>of Orders</u>	<u>Total</u> <u>Pounds</u>	<u>Number</u> <u>of Orders</u>	<u>Total</u> <u>Pounds</u>
Broiler Feeds-Supplement	1	2,500	1	2,500	0	0
Starter-Grower (Egg Type) Complete	1	550	0	0	1	550
Layer-Breeder (Egg Type) Complete	11	13,690	9	9,040	2	4,650
Layer-Breeder (Egg Type) Supplement	1	1,450	1	1,450	0	0
Turkey Feeds-Complete	1	1,000	0	0	1	1,000
Beef Feeds-Complete	110	416,100	82	324,200	28	91,900
Beef Feeds-Supplement	82	340,550	50	203,750	32	136,800
Dairy Feeds-Complete	17	116,786	14	91,086	3	25,700
Dairy Feeds-Supplement	11	143,610	7	121,560	4	22,050
Swine Feeds-Complete	44	97,700	27	64,200	17	33,500
Swine Feeds-Supplement	38	95,951	22	54,150	16	41,801
Sheep Feeds-Complete	10	23,100	6	19,350	4	3,750
Sheep Feeds-Supplement	5	7,350	4	3,850	1	3,500
Horse Feed-Complete	27	67,450	18	30,250	9	37,200
Horse Feed-Supplement	4	2,568	4	2,568	0	0
All Stock	34	70,000	29	51,500	5	18,500
Rabbit Feed	3	14,000	2	12,000	1	2,000
Pet Foods (Dog & Cat)	110	1,859,439	64	1,775,262	46	84,177
Health Products	1	2,000	1	2,000	0	0
Mineral Feeds	98	312,105	57	127,200	41	184,905
Scratch Grains	2	3,350	0	0	2	3,350
Liquid Feeds-Beef	1	5,450	1	5,450	0	0
Specialty Pet Foods (cage or tank)	6	3,626	4	2,586	2	1,040
Other Feeds	3	2,530	2	530	1	2,000
Alfalfa Products	9	95,400	5	2,100	4	93,300
Animal Products	15	510,570	9	230,270	6	280,300
Brewers Products	1	1,500	1	1,500	0	0
Corn Products	4	120,040	3	95,040	1	25,000
Cottonseed Products	27	368,512	19	249,762	8	118,750
Distillers Products	9	319,470	6	233,720	3	85,750
Linseed & Flax Products	2	262,559	2	262,559	0	0
Milk Products	1	110	1	110	0	0
Minerals Products	3	39,350	2	3,350	1	36,000
Oat Products	4	81,000	1	36,000	3	45,000
Soybean Products	14	120,060	9	37,760	5	82,300
Vitamin Products	4	1,790	1	0 ²	3	1,790
Yeast	1	716	0	0	1	716
Miscellaneous Products	<u>2</u>	<u>4,300</u>	<u>1</u>	<u>4,000</u>	<u>1</u>	<u>300</u>
Totals	<u>717</u>	<u>5,528,232</u>	<u>465</u>	<u>4,060,653</u>	<u>252</u>	<u>1,467,579</u>
Percentage	100%	100%	65%	73%	35%	27%

² Less than one pound

Source: SAO Analysis.